

Scott Coltrane

Freyd v University of Oregon, et al

June 15th, 2018



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<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON EUGENE DIVISION</p> <p>JENNIFER JOY FREYD,) Plaintiff,) No. v.) 6:17-CV-00448-MC UNIVERSITY OF OREGON, MICHAEL H.) SCHILL and HAL SADOFSKY,) Defendants.))</p> <p style="text-align: center;">DEPOSITION OF SCOTT COLTRANE June 15th, 2018 Friday 10:34 A.M.</p> <p style="text-align: center;">THE VIDEOTAPED DEPOSITION OF SCOTT COLTRANE was taken at University of Oregon, EMU, Room 107, Eugene, Oregon, before Deborah M. Bonds, CSR-RPR, Certified Shorthand Reporter in and for the State of Oregon.</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">APPEARANCES (continued)</p> <p>1 2 3 For Defendant Michael Schill: 4 PERKINS COIE LLP 5 1120 NW Couch, 10th Floor 6 Portland, OR 97209 7 503/727-2000 8 BY: MR. NATHAN R. MORALES 9 nmorales@perkinscoie.com 10 11 Also Present: 12 ROBIN CASSIDY-DURAN, CLVS, VIDEOGRAPHER 13 JENNIFER JOY FREYD 14 15 Reported by: 16 DEBORAH M. BONDS, CSR-RPR 17 CC REPORTING & VIDEOCONFERENCING 18 EUGENE 541/485-0111 19 20 21 22 23 24 25</p>
<p style="text-align: center;">2</p> <p>1 2 3 4 For the Plaintiff: 5 JOHNSON JOHNSON LUCAS & MIDDLETON 6 975 Oak Street, Suite 1050 7 Eugene, Oregon 97401 8 541/484-2434 9 BY: MS. JENNIFER MIDDLETON 10 jmiddleton@justicelawyers.com 11 12 For Defendants U of O and Hal Sadofsky: 13 BARRAN LIEBMAN LLP 14 601 SW 2nd Avenue, Suite 2300 15 Portland, Oregon 97204 16 503/228-0500 17 BY: MS. PAULA BARRAN 18 pbarran@barran.com 19 BY: MS. SHAYDA ZAERPOOR LE 20 sle@barran.com 21 22 (continued) 23 24 25</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">INDEX</p> <p>1 2 3 4 WITNESS.....PAGE 5 SCOTT COLTRANE 6 BY MS. MIDDLETON 6 7 8 EXHIBITS.....REFERRED 9 Exhibit 35 Psychology Department Self-Study 109 10 Exhibit 37 Letter, Mayr to Marcus/Sadofsky, 121 11 12/6/16 12 EXHIBITS.....MARKED 13 Exhibit 45 30(b)(6) Notice 10 14 Exhibit 46 Retention Faculty Salary 69 15 Adjustment 16 Exhibit 47 Retention Process 69 17 Exhibit 48 Revision of Policy on Retention 92 18 Offers, August 2017 19 MARKED TEXT.....PAGE....LINE 20 INSTRUCTION 11 7 21 INSTRUCTION 124 23 22 INSTRUCTION 125 19 23 24 25</p>

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1 but it also exposes them to other places. Other
2 people see they're good and might be interested in
3 recruiting them. So it's all part of, I guess, the
4 academic marketplace.

5 So we don't discourage them from doing
6 that. In fact, we encourage them to be as -- as
7 involved on the national level as possible.

8 Q. Is it a goal of the university's to pay
9 people at market rates?

10 A. Yes.

11 Q. How does the university achieve that goal?

12 MS. BARRAN: And I'm going to ask you
13 to identify, if you would, which of the topics he
14 was designated for that you're inquiring about.

15 MS. MIDDLETON: To me it falls under
16 the question of retention.

17 MS. BARRAN: Well, I don't see that it
18 does. I'm going to allow -- I'm certainly going to
19 allow him to answer, but I'd ask you to -- he -- he
20 has been prepared to come here as a representative
21 of the university for specific areas, so I mean, he
22 can speak about what he thinks generally, but
23 it's -- I don't see it as part of the 30(b)(6).

24 And I'm going to allow him to finish
25 his answer, but I do want to point out that he is a

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1 30(b)(6) witness.

2 Go ahead.

3 A. Can you ask it again?

4 MS. MIDDLETON: Can you read back what
5 the question was?

6 (The testimony was read.)

7 A. By collecting data on how we compare in
8 our offers to other AAU institutions in preparation
9 for negotiating with United Academics in collective
10 bargaining so that we can be speaking about the same
11 issues. And, you know, we want to pay people a fair
12 salary so --

13 BY MS. MIDDLETON:

14 Q. So one of the considerations on the
15 retention policy, the fourth bullet down is

16 (reading): Implications for internal equity
17 within the unit.

18 How does that consideration -- how does it
19 affect retention offers?

20 A. So again, I would divide my involvement
21 with the process in the previous budget model and
22 then the current more centralized model. In the
23 previous budget model, the choice as to whether or
24 not to allow the stars to be paid substantially more
25 than the average faculty member was a negotiation

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1 between the dean who controlled the purse strings
2 and the department.

3 And some departments were very concerned
4 that no one of similar merit be paid differently.
5 Other departments felt that whatever resources they
6 could pay their best faculty would rise the tide for
7 other faculty. So there were differential pay
8 levels for departments that on the outside looked
9 kind of similar in their accomplishments.

10 Q. Faculty, do you mean?

11 A. Pay for faculty in a -- in the biology
12 department, for instance, was more similar than it
13 was in the chemistry department, but they -- they
14 compete for similar sorts of grants so it didn't
15 make a lot of sense, but I think it was historical
16 accumulation of a policy where the department head
17 would not make offers out of line with what current
18 people were making but --

19 Q. In biology, you're talking about?

20 A. In biology or any -- as an example of any
21 department. Other departments would -- would
22 actually pay as much as they could and hope that by
23 doing so, eventually everybody would come up to that
24 level.

25 Now, with the collective bargaining

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1 agreement, with percentages sort of built into that
2 collective bargaining and with standardized
3 procedures, I think we're having somewhat more
4 similar processes at each department or unit. And
5 our goal, I would say, is to be competitive with
6 similar institutions and so AAU basically, other
7 research funding universities.

8 So the implication for internal equity
9 under the previous budget model was the dean would
10 make a proposal: Faculty member X who has an
11 outside offer from this other place that's \$30,000
12 more than we pay them -- that's probably more than
13 would be normal -- \$20,000 more than we would pay
14 them. Let's offer them 10, but we're going to use
15 another \$5,000 to the two people that this person is
16 going to leapfrog so that the equity -- so the gaps
17 don't get larger.

18 So those would be individual proposals
19 that a dean would make using her or his own money.
20 And contrast that with the current model where
21 faculty hiring is centrally funded in part because
22 of collective bargaining agreement and a new budget
23 model.

24 If we approve the hiring of a faculty
25 member, then we as an institution take

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1 responsibility for any equity issues that will cause
2 within the department; hence, we're doing this
3 equity study to see as we're hiring more faculty --
4 because we've been on a five-year process of growing
5 our faculty and replenishing some of our most
6 productive faculty because they've reached
7 retirement age. We hire something on the order of
8 50 new faculty every year, tenure track and tenured.

9 And so we're working on ways in which to
10 do that in a centralized way, whereas in the past
11 the distributed model did not really allow us as
12 much leverage in doing that.

13 Q. Could a department head still approach a
14 retention offer the way you described and say, well,
15 I'm going to give the targeted faculty member 10,
16 but I'll give these other two people of similar
17 merit five?

18 A. It is possible. I can think of one case
19 in which it happened when I was provost and there
20 was central -- some central funding provided to
21 raise the salaries of those who'd been here longer.
22 And this was in reaction to the hiring of a new
23 Native American woman faculty in the College of
24 Education who came -- because she had a high salary
25 at her current institution, we hired her at a

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1 substantially higher rate than what the existing
2 tenured professors were in this department.

3 And a proposal came forward from the dean
4 and more resources were given to do that. It's
5 unusual. That's the only one that I remember, but
6 it was definitely an institutional need to pay a
7 much higher rate to get a Native American woman
8 scholar because they're just hard to land.

9 Q. And so the college then supported -- or
10 the university supported raising up the pay of other
11 longer-serving professors?

12 A. Yes. Nobody was happy in the end because
13 it was not as much as they thought they deserved.
14 And in my estimation the productivity of the other
15 faculty member was not as strong as the -- the newer
16 hire's.

17 So that -- I mean, the overall picture for
18 me as provost are for the president because he's
19 really on a trajectory to increase the scholarly
20 reputation of the university is if we're going to
21 raise in the rankings, we have to hire better
22 than -- the productivity has to be more than the
23 faculty we have now.

24 And so internally that sometimes sets up
25 some issues -- apart from the pay, you know, there

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1 are many factors besides longevity and so it's how
2 to measure that merit and that productivity that
3 really is kind of where the action is.

4 Q. So you'd want some -- well, you would look
5 at the merit of the other --

6 A. Right.

7 Q. -- affected faculty members.

8 A. Yep.

9 Q. The next bullet is (reading):
10 Strategic goals of the unit, school or
11 college, and university.

12 Can you explain that to me? What are you
13 talking about by strategic goals and how do they fit
14 in?

15 A. And so an example would be that applies to
16 psychology is with several gifts including the Lewis
17 gifts, we end with historical strengths. We have
18 some subfields in psychology in which our ranking is
19 higher than other subfields, and one of those is
20 neuroscience. And in part, that's from people like
21 Mike Posner who is a national academy member and one
22 of the first neuroscientists -- kind of create --
23 helped create the field.

24 And so we hired some people who were using
25 magnetic resonance imaging, fMRI machine. And then

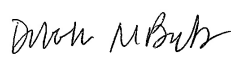
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1 once you make that large investment of creating an
2 instrumentation facility, you need to have faculty
3 who will use it. And there are medical uses, but
4 we're not a medical school.

5 So we did some hiring there and people
6 like Jennifer Pfeiffer and Phil Fisher use that
7 machine. And then we're able to garner more gifts
8 like the Posner gift, but other gifts of people who
9 work in that area or Ulrich and -- so because we had
10 some retirements of people who had established our
11 reputation, including Mike Posner, we needed to
12 reload in that area.

13 So that's a strategic goal of psychology
14 to maintain its ranking in neuroscience. Then
15 there's also some biologists who do neuroscience.
16 That's kind of a different related thing. So those
17 are the kind of things.

18 So build expertise in a particular
19 subfield, and you need a certain number of senior
20 scholars for PhD students to come to study with
21 them. You can't just have -- in many subfields --
22 one person doing research in an area doesn't
23 constitute a critical mass for getting the best in
24 the country. So I don't know if that's a tangent
25 but --

<p style="text-align: right;">149</p> <p>1 as dean. I think I was dean then or maybe as 2 provost. So other times they wouldn't make it to 3 me. I didn't hear lots of squabbling, but those 4 were two departments -- one department in particular 5 that was fighting a lot.</p> <p>6 Q. Which one?</p> <p>7 A. History. But we did an endowed chair 8 hiring in history and then retained this woman in 9 history who was probably one of their best scholars. 10 And everybody respected them, but it was just sort 11 of the sour grapes. And the other thing is we were 12 committed to doing spousal hires at that point in 13 time and treating both members of a couple to be 14 able to retain them. And we hadn't done that very 15 often before.</p> <p>16 So that's one of the things that comes 17 onto the table when somebody says, well, I really 18 would like to stay here but my partner doesn't have 19 the right kind of job. Is there anything you can 20 do?</p> <p>21 And in the past we hadn't done that out of 22 concern for not -- you know, not following our own 23 rules, but we began to entertain those kind of 24 offers. And so what we end up doing is ad hoc 25 evaluation, is -- is the partner qualified? And we</p>	<p style="text-align: right;">151</p> <p>1 questions for you.</p> <p>2 A. Okay.</p> <p>3 MS. BARRAN: I want to take -- take 4 one minute and make a decision because I'm not sure 5 I have anything.</p> <p>6 THE VIDEOGRAPHER: Stand by, please. 7 We're off the record at 2:45 p.m.</p> <p>8 (Recess: 2:45 to 2:48 p.m.)</p> <p>9 THE VIDEOGRAPHER: We're back on the 10 record at 2:48 p.m.</p> <p>11 MS. BARRAN: I don't have any cross. 12 Dr. Coltrane will read and sign, please.</p> <p>13 THE VIDEOGRAPHER: Stand by, please. 14 We're off the record at 2:48 p.m.</p> <p>15 (The deposition was concluded 16 at 2:48 p.m.)</p> <p>17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">150</p> <p>1 set aside some money every year where we know 2 there's going to be so many of these that happen.</p> <p>3 And so we're doing more of them but trying 4 to monitor that we're not breaking, you know 5 internal culture and evaluation of strength. Sorry. 6 That was a tangent.</p> <p>7 Q. That's all right. So you've mentioned the 8 pay equity study many times. And I'm wondering if 9 you know whether the pay equity study is going to 10 look into issues of internal equity apart from 11 protected groups.</p> <p>12 So separate from looking at equity on the 13 basis of race or equity on the basis of gender or 14 other factors, just simply internal equity within 15 departments.</p> <p>16 A. I do not know the specifics because I left 17 before it got launched. My understanding is it was 18 looking at all times -- all types of differential 19 pay by categories. So protected groups but also in 20 rank and differential between, I think, schools and 21 colleges and departments, although that's a little 22 less of a concern because we know the business 23 schools pay more than the journalism schools. 24 That's just sort of the way it is.</p> <p>25 Q. Okay. I don't think I have any further</p>	<p style="text-align: right;">152</p> <p>1 STATE OF OREGON) 2) ss. 3 County of Lane) 4 5 I, Deborah M. Bonds, CSR-RPR, a Certified 6 Shorthand Reporter for the State of Oregon, certify 7 that the witness was sworn and the transcript is a 8 true record of the testimony given by the witness; 9 that at said time and place I reported all testimony 10 and other oral proceedings in the foregoing matter; 11 that the foregoing transcript consisting of 151 12 pages contains a full, true and correct transcript 13 of the proceedings reported by me to the best of my 14 ability on said date.</p> <p>15 If any of the parties or the witness requested 16 review of the transcript at the time of the 17 proceedings, correction pages have been inserted.</p> <p>18 IN WITNESS WHEREOF, I have set my hand and CSR 19 seal this 27th day of June 2018, in the City of 20 Eugene, County of Lane, State of Oregon.</p> <p>21 22  23 Deborah M. Bonds, CSR-RPR 24 CSR No. 01-0374 25 Expires September 30, 2020</p>